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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,490	12/10/2004	Iwao Yamazaki	04173.0461-00000	5583
22852 7590 04/07/2009 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER HOEKSTRA, JEFFREY GERDEN				
ART UNIT		PAPER NUMBER		
3736				
MAIL DATE		DELIVERY MODE		
04/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,490

Applicant(s)

YAMAZAKI ET AL.

Examiner

JEFFREY G. HOEKSTRA

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3.5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3.5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/02/2009 has been entered.

Notice of Amendment

2. In response to the amendment(s) filed on 03/02/2009 and 03/30/2009, amended claim(s) 1-3 is/are acknowledged. The current rejections of the claim(s) 1-3, 5, and 6 is/are *withdrawn*. The following new and reiterated grounds of rejection are set forth:

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimomura (US 6,539,310) in view of Kawanishi (JP 11-123182) and in further view of Fukuda et al. (US 6,393,317 B1, hereinafter Fukuda).

5. Shimomura discloses a display equipment for displaying the characteristics of a body including the quantities of the bone, the water and/or the muscles of the body, the display equipment comprising:

- a plurality of pairs electrodes (21a,b and 22a,b) for contacting the surface of the body;
- means for measuring (23, 24) impedance of the body by feeding a measuring current through said plurality of electrodes into the body;
- a memory (44) for storing personal information into the display equipment (column 4 lines 27-29) (as seen in Figure 3);
- means for calculating (45) the lean mass index that may be treated as an index of the muscular tissue (column 8 lines 54-63) (column 5, lines 58-63) of the body on the basis of the measured impedance and said personal information (column 7 line 58 – column 8 line 3 and column 8 lines 54-63);
- means for judging the somatotypes of the body, which are classified on the basis of correlations between the value as calculated and body weight (see at least figures 5-7); and
- a display (42) for indicating the somatotype as judged by said judging means (see at least figure 10).

6. In regards to claim 2, Shimomura discloses the display equipment, wherein the personal information includes gender and age (column 4, lines 56-61).

7. In regards to claim 3, Shimomura discloses the display equipment, wherein said memory records the at least one of approximate values of the bone weight, the water

weight and the muscular weight of the body, as data calculated on the basis of the impedance as measured (column 4 lines 27-29) (as seen in Figure 3), and wherein said display indicates the data as calculated (as seen in Figures 3 and 10-12) (column 7, lines 4-17 and column 8, lines 4-12).

8. In regards to claims 5 and 6, Shimomura discloses the display equipment, wherein the equipment feeds a pulsed current (column 5, lines 10-15) through said electrodes into the body, so as to treat the body.

9. For claims 1-3, 5, and 6, Shimomura discloses the claimed invention, as set forth and cited above, except for expressly disclosing (a) a belt includes the plurality of pairs of electrodes and (b) the means for calculating at least one value of bone weight, water weight, and muscular weight of the body on the basis of the measured impedance and said personal information.

10. Fukuda teaches (a) a belt (9) including a plurality of pairs of electrodes (1-6) for the purpose of contacting electrodes with an abdominal part of a patient in order to measure body composition using impedance (see English abstract).

11. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. All of the component parts are known in Shimomura and Kawanishi. The only difference is the combination of the component parts into a single device. Thus, it would have been obvious to one having

ordinary skill in the art at the time of the invention to combine the components as taught by Shimomura with the components as taught by Kawanishi to achieve the predictable results of providing an alternative means for contacting electrodes with the body to make impedance measurements and determine body composition.

12. Thus for claims 1-3, 5, and 6, Shimomura in view of Kawanishi discloses the claimed invention, as set forth and cited above, except for expressly disclosing (b) the means for calculating at least one value of bone weight, water weight, and muscular weight of the body on the basis of the measured impedance and said personal information.

13. Fukuda teaches (b) the means for calculating (50) at least one value of water weight of the body on the basis of the measured impedance and said personal information (column 7 lines 9-35).

14. The claimed invention would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Because both Shimomura in view of Kawanishi and Fukuda teach means for calculating bodily parameter values on the basis of a measured impedance and personal information, it would have been obvious to one skilled in the art at the time of the invention to substitute one means for calculating for the other to achieve the predictable results of measuring, calculating and displaying body compositions using an alternate bodily composition parameter.

Response to Arguments

15. Applicant's arguments with respect to claims 1-3, 5, and 6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY G. HOEKSTRA whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday 8am to 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Jeffrey G Hoekstra/

Examiner, Art Unit 3736

/Max Hindenburg/

Supervisory Patent Examiner, Art Unit 3736